

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MONA LISA VILLAGOMEZ,

Plaintiff,

v.

JP MORGAN CHASE BANK, N.A., et al.,

Defendants.

Case No. 11cv826-BTM

ORDER RE MOTION TO REMAND

Defendant JP Morgan has filed an ex parte application to remand to state court. JP Morgan had removed this action to federal court, alleging that Plaintiff's claim for a violation of the Federal Truth in Lending Act ("TILA") established subject matter jurisdiction under 28 U.S.C. § 1331. Since removing, JP Morgan changed attorneys and its new counsel seeks remand.

Plaintiff's TILA claim is set forth as a separate cause of action. Pursuant to 15 U.S.C. § 1640(a), Plaintiff has a private right of action to bring this claim against Defendants. See also *Bogosian v. CR Title Servs.*, No. 5:11-cv-02043 EJD (HRL), 2011 U.S. Dist. LEXIS 91072, at *6 (N.D. Cal. Aug. 16, 2011). Thus, the Court has original jurisdiction to adjudicate Plaintiff's TILA claim and may exercise removal jurisdiction over this action. 28 U.S.C. § 1441(b).

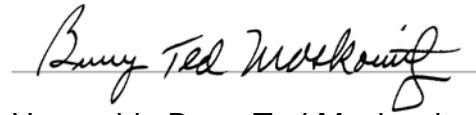
Defendant does not cite to, and independent research did not uncover, any authority for the proposition that the Court can remand based solely on a defendant's assertion that it changed its mind as to whether it wants a federal court to adjudicate an action. Section

1 1441(c), the authority relied upon by Defendant, does not provide the Court with authority to
2 remand the entire action to state court. Rather, pursuant to this section, the Court has
3 discretionary power to remand state law claims, while retaining jurisdiction over the federal
4 claims. *See Karnes v. Stewart*, No. 10-1059-ST, 2010 U.S. Dist. LEXIS 125671, at *2 (D.
5 Or. Nov. 29, 2010).

6 The Court declines to exercise this discretionary power. The Court will not address
7 the question of whether it will retain supplemental jurisdiction of Plaintiff's state law claims,
8 as long as Plaintiff's TILA claim remains actionable. Lacking authority to remand the entire
9 action to state court, the Court **DENIES** Defendant's ex parte application.

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11 **IT IS SO ORDERED.**

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14 DATED: September 16, 2011

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16 Honorable Barry Ted Moskowitz
17 United States District Judge
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